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FREEDOM IN THE WORLD

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Ukraine

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TREND ARROW:

Ukraine received a downward trend arrow due to violence against journalists and media manipulation associated with the controversy over President Viktor Yanukovich's decision to forego a European Union agreement and accept a financial assistance package from Russia—a decision made without public consultation and against the wishes of a large portion of the Ukrainian people.

OVERVIEW:

Domestic political life for much of 2013 revolved around President Viktor Yanukovich's unrelenting efforts to tilt the playing field in his favor in advance of the March 2015 presidential election. The unpopular president worked to eliminate potential opponents from the race, stack the electoral commission, strengthen his control of the judiciary, and exert greater influence over the media. Although the country's business magnates, or "oligarchs," often had separate interests from Yanukovich's, they were careful not to assert them forcefully and risk costly repercussions.

As the growth of its unreformed economy ground to a halt, Ukraine came under increasing pressure to choose an orientation toward Russia or the European Union. Yanukovich made it clear during the year that he intended to initial an Association Agreement with the EU at a November 28–29 summit in Vilnius, but with only days left before the gathering, on November 21, he abruptly decided not to proceed with the deal.

Yanukovich apparently chose to forego the EU agreement because he calculated that it would be the best way to preserve his political power. Moving closer to the EU would have forced long-delayed political, economic, and legal reforms on Ukraine. While such reforms could stimulate economic growth in the long term, they would impose short-term difficulties that might have undermined Yanukovich's ability to win reelection. Most importantly, the EU demanded that Yanukovich release former prime minister Yuliya Tymoshenko, potentially his most formidable political rival, from jail. Ukraine's pliant courts had sentenced her to seven years in prison in 2011

2014 SCORES

STATUS

Partly Free

FREEDOM RATING
(1 = BEST, 7 = WORST)

3.5

CIVIL LIBERTIES
(1 = BEST, 7 = WORST)

3

POLITICAL RIGHTS
(1 = BEST, 7 = WORST)

4

on the grounds that she had abused her power while in office by signing a deal that allowed Russia to charge more for natural gas than the judge deemed fair. The case was widely seen as politically motivated, and in May 2013 the prosecutor general filed murder charges against Tymoshenko to further undermine her standing. Yanukovich reportedly feared releasing her with a full pardon, which would allow her to resume an active political role and endanger his reelection bid in 2015. As the Vilnius summit drew closer, Yanukovich was urged to release Tymoshenko for medical treatment in Germany without giving her a pardon, effectively sending her into exile. However, no such decision was made, and she remained in prison at year's end.

Another crucial factor behind Yanukovich's failure to conclude the EU pact was increasing pressure from Russia, against the backdrop of a fiscal crisis that put Ukraine on the verge of defaulting on its foreign debts. During the latter part of the year, Yanukovich met with Russian president Vladimir Putin several times for secret negotiations, and after he backed away from the EU agreement, Putin on December 17 pledged to lend Ukraine \$15 billion (in \$3 billion installments and for just two years) and cut natural gas prices by a third (though the price is reviewed every three months). Moreover, unlike the EU, Putin raised no objections to Yanukovich's authoritarian bent or Tymoshenko's imprisonment, and demanded no economic reforms. Neither leader explained what Ukraine would provide in return for the Kremlin's assistance. An Association Agreement between the EU and Ukraine would have been a major defeat for Putin, who counted on Ukraine becoming a key member of a Russian-sponsored Customs Union. But despite his apparent tilt toward Russia, Yanukovich continued to claim that he wanted to work with the EU.

Immediately after Yanukovich announced that he would not sign the EU agreement, supporters of closer ties with Europe began to occupy Kyiv's Maidan Nezalezhnosti (Independence Square) and several nearby buildings, including city hall, remaining in place through the end of the year. Smaller protests were mounted in cities across the country. The Kyiv protests included a permanent encampment of several thousand people, with crowds swelling to hundreds of thousands on evenings and weekends for political speeches and concerts. A police attempt to clear the square on November 30, accompanied by savage beatings, drew many more protesters to the city center. In addition, unidentified assailants targeted activists and journalists in many regions. The leaders of Ukraine's main opposition parties sought to ensure that the protests remained peaceful, particularly watching for so-called *titushki*, young thugs hired by the authorities to carry out assaults. Meanwhile, some observers raised questions about the role and democratic credentials of the radical nationalist party Svoboda, which was crucial in organizing the protests.

Following the police violence, the main demands of the protesters were the resignation of Yanukovich and the holding of early presidential and parliamentary elections, but the government appeared unlikely to comply, and the crisis remained unresolved at year's end.

POLITICAL RIGHTS AND CIVIL LIBERTIES:

Political Rights: 20 / 40 (-1) [Key]**A. Electoral Process: 8 / 12**

The president is elected to a maximum of two five-year terms. In the 2010 presidential election, which met most international standards, Yanukovich defeated Tymoshenko in the second round of voting, 49 percent to 46 percent. He quickly reversed many of the changes adopted in the wake of the 2004 Orange Revolution, securing Constitutional Court rulings that enabled him to oust Tymoshenko as prime minister and replace her with a loyalist, and to annul the 2004 constitutional compromise that had reduced the power of the presidency. Under the restored 1996 constitution, the president issues decrees; exercises power over the courts, the military, and law enforcement agencies; appoints the prime minister with the parliament's approval and removes the prime minister at will; appoints and fires all other ministers without the parliament's approval; and appoints regional governors without consulting the prime minister. The parliament can dismiss the entire cabinet, but not individual ministers. The expansion of presidential power raised serious questions about whether the next presidential election in March 2015 would be free and fair.

Citizens elect delegates to the Verkhovna Rada (Supreme Council), the 450-seat unicameral parliament, for four-year terms. The 2004 constitutional amendments, which were annulled in 2010, had extended this term to five years. Under the ruling Party of Regions, the parliament has largely become a rubber-stamp body. According to a new electoral law adopted in December 2011, Ukraine returned to a system in which half of the members are elected by proportional representation and half in single-member districts; blocs of parties are not allowed to participate. In the 2012 parliamentary elections, the Party of Regions retained a plurality with 185 seats, followed by Tymoshenko's Fatherland with 101, professional boxer Vitaliy Klychko's Ukrainian Democratic Alliance for Reform (UDAR) with 40, the radical nationalist Svoboda party with 37, and the Communist Party with 32. Independents won 43 seats, and four small parties divided the remainder. As expected, and in sharp contrast with the other major parties, the Party of Regions won most of its seats in the revived single-member districts, giving it enough seats overall to forge working parliamentary majorities with the Communist Party and independents. Five seats remained unfilled because ballot tampering made it impossible to determine the winner, though the opposition claimed that they had won the seats. Legislation inspired by the EU and adopted in September 2013 cleared the way to hold fresh elections in those districts. Amid widespread allegations of misconduct, the elections held on December 15 produced victory for the opposition in only one seat, with the rest effectively going to the Party of Regions.

In May 2013, the Constitutional Court approved the postponement of Kyiv's mayoral and city council elections to October 2015, well after the March 2015 presidential election. It was clear that a fair vote would remove Yanukovich's ally, acting mayor Galyna Hryshko, from city hall. The last elected mayor had resigned in mid-2012. The head of the city administration holds the real power

in Kyiv, and this post was occupied by Oleksandr Popov until mid-December 2013, when Yanukovich replaced him in response to the failed November 30 effort to clear protesters from the central square by force. The acting city administrator at year's end was Popov's first deputy, Anatoliy Holubchenko.

In July Yanukovich appointed Mykhailo Okhondovsky as the head of the Central Electoral Commission, ensuring that the body was led by an ally ahead of the presidential election. He also appointed another member, Oleksandr Kopylenko, to the commission, provoking objections from the opposition, which argued that he had ignored his legal obligation to consult the parliament first.

B. Political Pluralism and Participation: 8 / 16 (-1)

Political parties are typically little more than vehicles for their leaders and financial backers, and they generally lack coherent ideologies or policy platforms.

Yanukovich has sought to eliminate potential 2015 presidential challengers by keeping Tymoshenko in jail and signing legislation in November 2013 that was designed to prevent Klychko from running because he has residency status in Germany. Klychko had formally announced his candidacy for the office in October and protested the adoption of the legislation. In another blow against Tymoshenko's party, police raided its offices on December 9 and confiscated its computer servers.

Both the Kremlin and Yanukovich's inner circle of relatives and associates, known as the "Family," exercise undue influence over the country's political affairs. During the countdown to the EU summit in November 2013, Russia, which accounted for 26 percent of Ukrainian commodities exports and 39 percent of services exports in 2012, put heavy pressure on Ukraine to dissuade it from going through with the Association Agreement. The Russian government imposed significant trade restrictions on Ukrainian exports to Russia and charged Ukraine a higher price for natural gas than that paid by European customers. Putin aide Sergey Glazyev warned in October that signing the Association Agreement would be "suicidal" for Ukraine. After Yanukovich rejected the EU deal, without public consultation, Russia responded with loans and reduced gas prices. The opaque change of course effectively served the short-term personal interests of Yanukovich and his allies while forestalling reform and potentially harming long-term national interests.

C. Functioning of Government: 4 / 12

Corruption, one of the country's most serious problems, continues to worsen. Business magnates benefit financially from their close association with top politicians. A *Forbes* study has shown that businessmen affiliated with the Party of Regions win a considerable portion of state tenders. Yanukovich has become the de facto owner of a huge estate outside of Kyiv, raising suspicions of illicit wealth, and his two sons have amassed both power and immense personal fortunes. The corruption of the administration, and the precedent set by its politicized pursuit of charges against Tymoshenko and former members of her government, have increased

Yanukovich's incentives to remain in power indefinitely. Small and medium-sized businesses continue to suffer at the hands of corrupt bureaucrats, tax collectors, and corporate raiders.

Civil Liberties: 35 / 60 (-1)

D. Freedom of Expression and Belief: 9 / 16 (-1)

The constitution guarantees freedoms of speech and expression. Libel is not a criminal offense. However, conditions for the media have worsened since Yanukovich's election in 2010. The media do not provide the population with unbiased information, as business magnates with varying political interests own and influence many outlets, and the state exercises politicized control over a nationwide television network and television stations at the regional level. Some 69 percent of Ukrainians get their news from television, and the medium now features fewer alternative points of view, open discussions, and expert opinions than in previous years.

Pressure on independent media increased dramatically during 2013. TVi, one of the last independent television channels with national reach, went through a change of ownership in May, and 30 of its top journalists left as a result. In June, 27-year-old Serhiy Kurchenko, apparently a stand-in for the president's inner circle, took over Ukrainian Media Holding, which controls dozens of newspapers, other periodicals, and websites. Editor Vladimir Fedorin and other leading journalists with *Forbes Ukraine*, which was part of the group, left after the sale, stating that the magazine had lost its independence. Kurchenko also gained control of *Korrespondent*, a prominent opposition publication whose key journalists similarly quit. *Ukrayinska Pravda*, the country's most influential news site, came under a different form of pressure attributed to the president's allies, with the establishment of look-alike websites and publications meant to tarnish its image.

Other television channels remain in the hands of oligarchs who compete with the president's "Family" for influence, including oil baron Ihor Kolomoysky and Viktor Pinchuk. In February 2013, the largest television network in Ukraine, Inter, was bought by the head of the presidential administration, Serhiy Levochkin, but observers said its coverage remained relatively balanced. Levochkin is closely allied with gas oligarch Dmitro Firtash, but not part of the Yanukovich "Family." He opposed the use of force against the protesters in late 2013 and resigned from his government post. While state television ignored the protests, the oligarch-controlled channels provided comparatively objective coverage as their owners apparently sought to hedge their bets and balance between Yanukovich and the opposition. Newly created independent internet news sites, such as Hromadske TV, broadcast many of the protest-related events in real time.

Despite this limited degree of pluralism, self-censorship is rampant at the oligarch-owned media outlets, as the businessmen must be careful not to directly antagonize the authorities and thereby endanger their assets. Topics like corruption and especially the president's lavish residence at Mezhyhirya are considered off limits.

Journalists continue to face the threat of violence in the course of their work, with a total of 101 acts of physical violence against Ukrainian journalists documented in 2013. Assaults badly beat journalist and opposition activist Tetyana Chornovol on December 25. She claimed that Yanukovich had ordered the attack because she was investigating the construction of a new mansion even grander than Mezhyhirya. Yanukovich denied ordering the beating. A group of thugs beat reporters Olha Snitsarchuk and Vladyslav Sodel in Kyiv in May during an opposition rally. Police at the scene failed to intervene. Oleh Bogdanov, a journalist who covers abuses by traffic police and other authorities, was severely beaten in Donetsk in July. In January, a court sentenced the Interior Ministry's former surveillance department chief, General Oleksey Pukach, to life in prison for killing journalist Heorhiy Gongadze in 2000. The Organization for Security and Cooperation in Europe called for further investigations to identify those who had ordered the killing.

The constitution and the 1991 Law on Freedom of Conscience and Religion define religious rights in Ukraine, and these are generally well respected. However, among other problems, Yanukovich publicly associates himself with one of the country's competing branches of the Orthodox Church (that associated with the Moscow patriarchate), and there have been some signs of anti-Semitism in political campaigns in recent years.

Academic freedom has come under pressure since Yanukovich took power. Education Minister Dmytro Tabachnyk has curtailed many programs designed to promote Ukrainian language and culture, and in 2010 he began a process aimed at bringing Ukrainian textbooks into line with those in Russia. Ministry budget cuts have focused heavily on schools with liberal reputations and universities in Kyiv and western Ukraine, while universities in the eastern Donetsk region have gained more funding.

E. Associational and Organizational Rights: 8 / 12

The constitution guarantees the right to peaceful assembly but requires organizers to give the authorities advance notice of any demonstrations. Before the EU-related protests began in November 2013, a growing number of court rulings had prohibited peaceful assembly, and the administration sought to pressure protest leaders. However, the government lost control of the situation when thousands of protesters began camping in downtown Kyiv after the rejection of the EU agreement. A brutal police effort to remove the protesters on November 30 failed and brought more people into Independence Square. After a second attempt to clear the square collapsed on December 11, the authorities effectively ceded the downtown area to the protesters through the end of the year.

Beyond the late 2013 protests, social, political, cultural, and economic movements of different sizes and with various agendas have remained active despite serious obstacles. Leaders of the civic activist group Femen have complained of intimidation and repeated physical assaults. Trade unions function in the country, but strikes and worker protests are infrequent. Factory owners are

still able to pressure their workers to vote according to the owners' preferences.

F. Rule of Law: 7 / 16

The judiciary is subject to intense political pressure and largely carries out the will of the executive branch, as the imprisonment of Tymoshenko demonstrated in 2011. In April 2013, Yanukovich pardoned former interior minister Yuriy Lutsenko, who had been sentenced to four years in prison in 2012 and was the subject, along with Tymoshenko, of an international campaign accusing Ukraine of selective justice. The president also pardoned former environment minister Heorhiy Filipchuk, another jailed Tymoshenko ally.

In July 2013 Yanukovich appointed Vyacheslav Ovcharenko, a judge from his hometown of Yenakiyeve, to be chairman of the Constitutional Court. He had served on the court since 2006, and would henceforth be in a position to approve potential legal changes designed to keep Yanukovich in power, such as holding presidential elections in one round or holding a referendum on constitutional amendments. Observers questioned Ovcharenko's qualifications and alleged that he may have had a hand in removing criminal records describing Yanukovich's youthful convictions.

In other politically fraught judicial developments, the High Administrative Court in February 2013 canceled the elections of two independent members of parliament who had already been confirmed by the Central Electoral Commission but refused to work with the Party of Regions. In March, the court stripped Serhiy Vlasenko, Tymoshenko's unpaid legal defender, of his seat in parliament for allegedly engaging in commercial activity beyond his official duties. An obscure Party of Regions deputy later lost his seat as well in a possible bid to cover the political motives of Vlasenko's removal.

An extensive reform of the legal system linked to the planned conclusion of the EU Association Agreement would have improved judicial independence and prison conditions. However, the president's decision not to proceed meant that the reforms were not enacted, leaving the courts, prosecutors, and law enforcement agencies under the effective control of the executive.

Reports of police torture have grown in recent years. Townspeople in Vradiyivka in the southern Mykolayiv region stormed the local police station after officers were accused in the brutal beating and rape of a 29-year-old woman, Iryna Krashkova, in June 2013. The incident reportedly followed years of police abuses and impunity in the region. Four defendants, including three police officers, were ultimately sentenced to prison in November. Separately, the number of raids by tax police and the security service against opposition-aligned businesses has increased. Since 2010, Ukrainian authorities have misused psychiatric treatment to intimidate civil society activists.

Crimean Tatars, many of whom returned to Ukraine after being exiled en masse in 1944, continue to suffer discrimination at the hands of local authorities and communities in Crimea in terms of access to land ownership, employment, social services, and educational

opportunities in their native language. Their representative organizations, such as the Mejlis, have not won official recognition. The country's Romany population also suffers from discrimination. However, the national government has generally interceded to protect the rights of most ethnic and religious minorities, including the Tatar community.

G. Personal Autonomy and Individual Rights: 11 / 16

Gender discrimination is prohibited under the constitution, but government officials demonstrate little interest or understanding of the problem. Human rights groups have complained that employers openly discriminate on the basis of gender, physical appearance, and age. The trafficking of women abroad for the purpose of prostitution remains a major problem.

LGBT (lesbian, gay, bisexual, and transgender) people continue to face discrimination and hostility in Ukraine. The country's first LGBT rally took place in May 2013, proceeding peacefully with police protection despite counterdemonstrators and an initial court ban.

Scoring Key: X / Y (Z)

X = Score Received

Y = Best Possible Score

Z = Change from Previous Year

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